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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,376	07/15/2003	Jeffrey T. Remillard	FLD0106PUS	1375

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EXAMINER

TANINGCO, MARCUS H

ART UNIT PAPER NUMBER

2878

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/604,376	REMILLARD ET AL.	
	Examiner	Art Unit	
	Marcus H Taningco	2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 19-22 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

Claims 20 and 22 are objected to because of the following informalities: Claims 20 and 22 should be dependent on claim 19 rather than claim 18. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-6, 9, 11-17, 19, 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Marinelli et al. (US 6,795,237).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C.

102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37

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CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Re claim 1, Marinelli et al. teaches a vision system (Figs. 3-5) comprising a heater **74** and thermistor (thermal sensor) **76** contained within a light source housing **78**, the heater **74** and thermistor **76** controlling the temperature of the light source **72** in response from a signal from a controller **52** (Col. 5, 7-24).

Re claims 2 and 4, Marinelli et al. teaches a cooling system **62** (Figs. 3-5) having a cooling fan **164** to cool the light source **72** and a controller **52**, wherein the controller **52** controls the operation of the light source **72** (Col. 10, 12-15). The Examiner interprets this statement to encompass all operations concerning the light source **72**, including controlling the temperature of the light source **72**.

Re claim 5, Marinelli et al. teaches a cooling system **62** comprising a heat sink **56**, an air gap (sleeve) **66**, a cooling fan **164**, and a controller **52**, wherein the controller **52** controls the operation of the light source **72** and the power supply **64** (Col. 10, 12-15). The Examiner interprets this statement to encompass all operations concerning the light source **72**, including controlling the cooling fan **164** to cool the light source.

Re claim 6, Marinelli et al. teaches a thermal coupler layer **84** residing between the heat sink **56** and the light source **72** (Col. 5, 44-46).

Re claim 9, Marinelli et al. teaches the heater **74** and the thermistor **76** controls the temperature of the light source. The heater **74** is activated from a temperature signal generated by the thermistor **76**. The Examiner interprets this method to include a temperature threshold

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from where actual temperature values are compared and signals generated to activate the heater 74.

Re claim 11, Marinelli et al. teaches a vision system (Figs. 3-5) comprising: an illumination system 16 having a light source 72 and generating an illumination beam 20; a heater 74 and thermistor (thermal sensor) 76 contained within a light source housing 78, the heater 74 and thermistor 76 controlling the temperature of the light source 72; a receiver system 18 generating an image signal in response to at least a reflected portion of said illumination beam 20 (Col. 3, 44-65); and an illumination controller 52 controlling generation of light and temperature of the illumination system 16 (Col. 4, 54-68).

Re claim 12, Marinelli et al. teaches the illumination system 16 is configured and mounted within the interior cabin of the vehicle (Col. 4, 45-52).

Re claim 13, Marinelli et al. teaches the receiver system 18 is configured and mounted within the interior cabin of the vehicle (Col. 4, 45-52).

Re claim 14, Marinelli et al. teaches a vision system (Figs. 3-5) comprising a heater 74 and thermistor (thermal sensor) 76 contained within a light source housing 78, the heater 74 and thermistor 76 controlling the temperature of the light source 72 in response from a signal from a controller 52 (Col. 5, 7-24).

Re claim 15, Marinelli et al. teaches a cooling system 62 (Figs. 3-5) having a cooling fan 164 to cool the light source 72 and a controller 52, wherein the controller 52 controls the operation of the light source 72 (Col. 10, 12-15). The Examiner interprets this statement to encompass all operations concerning the light source 72, including controlling the temperature of the light source 72.

Re claim 16, Marinelli et al. teaches a cooling system **62** comprising a heat sink **56**, an air gap (sleeve) **66**, a cooling fan **164**, and a controller **52**, wherein the controller **52** controls the operation of the light source **72** and the power supply **64** (Col. 10, 12-15). The Examiner interprets this statement to encompass all operations concerning the light source **72**, including controlling the cooling fan **164** to cool the light source.

Re claim 17, Marinelli et al. teaches a receiver system **18** comprising a filter **196** to filter the reflected near infrared light, and allow light which correspond to the with wavelength of light contained within the illumination signal (Col. 9, 37-56).

Re claim 19, Marinelli et al. teaches a vision system (Figs. 3-5) comprising a heater **74** and thermistor (thermal sensor) **76** contained within a light source housing **78**, the heater **74** and thremistor **76** controlling the temperature of the light source **72** in response from a signal from a controller **52** (Col. 5, 7-24).

Re claims 21 and 22, Marinelli et al. teaches a filter **196** to filter the reflected near infrared light, and allow light which correspond to the with wavelength of light contained within the illumination signal and also effect temperature change to the light source **72** (Col. 9, 37-56).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 7, 8, and 20 are rejected under 35 U.S.C. 103(a) as being obvious over Marinelli et al. in view of Blake (US 6,188,189).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Re claims 3, 7, 8, and 20, Marinelli et al. teaches a controller **52** and a cooling fan **164**, but fails to specify controlling cooling output and duration of the cooling fan **164**. Blake teaches a fan speed control system to control the cooling output and fan speed for a predetermined amount of time (Abs.). It would have been obvious to one with ordinary skill in the art at the

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time the invention was made to modify Marinelli et al. with a fan speed control system to ensure that the light source 72 is operating during constant temperatures and to prevent overheating.

Claim 10 is rejected under 35 U.S.C. 103(a) as being obvious over Marinelli et al. in view of Andrews et al. (US 5,482,013).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Re claim 10, Marinelli et al. teaches a controller 52 and a heater 74, but fails to specify controlling thermal output and duration of the heater 74. Andrews et al. teaches heaters

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controlled for various time periods and duty cycles (Col. 10, 27-34). It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Marinelli et al with a thermal control system to provide constant temperatures and prevent overcooling.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 5, and 11-13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 10, 11, 24, 27, 31, 32, and 38 of copending Application No. 10/250062. Although the conflicting claims are not identical, they are not patentably distinct from each other because both are drawn to a vision system and method of using said vision system comprising a heater, a thermal sensor and a controller.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 18 recites the limitation of a plurality of LEDs performing color mitigation.⁷

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jiang et al. (US 6,603,507) discloses a method for controlling a light source in night vision surveillance system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus H Taningco whose telephone number is (571) 272-1848. The examiner can normally be reached on M - F 8:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MT


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